Case 1:07-cv-09744-DLC Document 41-4 Filed 08/22/2008 Page 1 of 12

## **EXHIBIT 3**

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

-- ×

TRUSTEES OF THE 1199/SEIU GREATER NEW YORK BENEFIT FUND, TRUSTEES OF THE 1199/SEIU GREATER NEW YORK PENSION FUND, TRUSTEES OF 1199/SEIU GREATER NEW YORK EDUCATION FUND, TRUSTEES OF THE 1199/SEIU GREATER NEW YORK CHILD CARE FUND, TRUSTEES OF THE 1199/SEIU JOB SECURITY FUND and THE TRUSTEES OF THE 1199/SEIU GREATER NEW YORK WORKER PARTICIPATION FUND,

Plaintiffs,

-against-

Index No.

07-CV-9744

KINGSBRIDGE HEIGHTS REHABILITATION CARE CENTER,

Defendant.

DEPOSITION OF HELEN SIEGER
August 6, 2008
2:55 P.M.

American Reporting Co.

Complete Litigation Support 555 Fifth Ave. - 17th Fl New York, NY 10017 (212) 349-1774

## Helen Sieger 1 Approximately 13 years. Α. 2 What are your duties at Q. 3 Kingsbridge? 4 As an operator, I have many Α. 5 duties. 6 Can you briefly describe them for 7 me, please? 8 Ultimately I am responsible to Α. 9 overseeing all the departments and all the 10 department heads. 11 You've heard of 1199, right? 0. 12 Α. I have. 13 Is that the union that represents 0. 14 some of the employees at Kingsbridge; right? 15 Yes. Α. 16 And it's true, isn't it, that up 17 through April 30, 2005 Kingsbridge had a 18 collective bargaining agreement with 1199? 19 Yes. Α. 20 And it had a collective 0. 21 bargaining agreement with 1199 for a number 22 of years before then; right? 23 Α. Yes. 24 And before that for a number of Q.

Helen Sieger 1 years it had a collective bargaining 2 agreement with the union called Local 144; 3 right? 4 Yes. Α. 5 And it's true, isn't it, that for 0. 6 many years Kingsbridge, pursuant to those 7 collective bargaining agreements, made 8 contributions to the 1199 fringe benefit 9 funds; right? 10 Yes. Α. 11 During the period October 1, 2006 12 through the present, what role, if any, did 13 you have in making payments to the 1199 14 fringe benefit fund? 15 I signed the checks. 16 Other than signing the checks, Ο. 17 what other role did you have? 18 MR. JOHNSON: Objection. 19 The check would be prepared and Α. 20 brought to me to be signed. 21 Who prepared the checks? Ö. 22 The bookkeepers. Α. 23 Who were the bookkeepers? Q. 24 Depends what period we're talking Α. 25

Helen Sieger 1 Α. Yes. 2 Have you seen this document 3 before today? 4 I've seen the document before 5 today for about one minute. 6 Do you remember that there were 7 hearings before Judge Fish that led up to 8 this decision? . 9 Yes. Α. 10 You recall there was a hearing 0. 11 January of 2008 and that you were there? 12 Α. Yes. 13 And do you recall being present 0. 14 at a hearing in May of 2008? 15 Α. Yes. 16 And would you agree with me that 0. 17 this case -- when I say this case, I mean 18 the case addressed in Deposition Exhibit 1, 19 arose out of an unfair labor practice charge 20 that 1199 filed against Kingsbridge? 21 It arose out of charges that 1199 22 filed against Kingsbridge. 23 And I'm correct, aren't I, that 0. 24 those charges alleged that Kingsbridge 25

Helen Sieger

didn't make certain fringe benefit contributions; right?

- A. Those were the charges.
- Q. If you could please take a moment and turn to page 10 of the decision, please.
  - A. Yes.

- Q. And in particular, if you would direct your attention to the third paragraph from the top that begins on line 10 and read that to yourself, please?
  - A. Yes.
- Q. This -- these two sentences say that Kingsbridge has not made any payment to the funds for June of 2007 or any subsequent period, that the last payments which were made on August 8, 2007, covered the month of May, 2007.

Would you agree with the conclusion that Judge Fish reached that Kingsbridge has made no contributions to the fringe benefit funds for any month after May of 2007?

A. No, I disagree then and I disagree now.

Helen Sieger

witness whatever you communicated with Joel you don't testify about.

- A. My communication was not with the benefit fund. It was only through my attorney.
- Q. To your knowledge, did Mr. Cohen advise the union that in fact those payments had been made?

MR. JOHNSON: Again, I will caution you not to disclose communications that you had with Mr. Cohen.

MR. KOLKO: I only want to know what Cohen said to the union.

MR. JOHNSON: To the extent you are aware what Mr. Cohen said to the union, you can testify.

- A. I don't know what Mr. Cohen did afterwards and I can't recall right now what he said he did, but I have to assume that he called you or somebody.
- Q. But you simply don't know what he did as a follow-up?
  - A. I don't, or I don't recall right

4 5

## Helen Sieger

Q. Miss Sieger, I am going to quote from, starting at line four, quote:

"There is also an issue as to whether certain payments were tendered by Kingsbridge to the trust but refused and were not cashed over a period of four months..." and I'm going to stop there.

Have you had a chance to read that?

MR. JOHNSON: I got it.

- A. Yes.
- Q. Would you agree that the payments were refused?
- A. I have no knowledge of what happened to the payments. The only thing that I can testify to is that checks were signed, the checks were sent out. And when we checked after the Judge Katz conference, they were not cleared. What happened I can only assume what happened, but I don't think you wants me to testify to that.
  - Q. I don't want you to assume.
  - A. Okay.
  - Q. And you told me that at no time

Helen Sieger 1 Α. Yes. 2 Is that a January 3rd, 2008 0. 3 letter? 4 Yes. Α. 5 And do you recall receiving it on 0. 6 or around January 8 of 2008? 7 I know that I saw that letter. Α. 8 don't know when I saw it. I believe that I 9 saw it much later than that. I actually --10 I believe that it was Mr. Calazzo that told 11 me about this. 12 Well, Mr. Calazzo entered an 1.3 Ο. appearance as an attorney in this matter on 14 June 24, 2008. Does that sound right to 15 you? 16 I don't know the exact date but Α. 17 it sounds right. 18 Are you telling me then that 19 Mr. Calazzo told you about this letter at 20 some point after June 24 of 2008? 21 Yeah. He told me about your 22 request for an audit. 23 And he told you about this 0. 24

letter?

25

Helen Sieger 1 Not about this letter. Α. 2 Okay. Is this letter properly 0. 3 addressed? 4 Yes, it is. Α. 5 And does Kingsbridge have trouble 6 getting Federal Express deliveries or 7 Express Mail deliveries? 8 It does now. Α. Did it -- was it having trouble 10 receiving Express Mail deliveries in early 11 January of 2008? 12 No. Α. 13 So why wouldn't you have seen 0. 14 this letter on or about January 3rd of 2008? 15 MR. JOHNSON: Objection to form, 16 calls for speculating. 17 Because on January 3rd of 2008 we 18 were working very diligently trying to get 19 coverage for the strike that we were told is 20 going to be happening. 21 Well, I'll represent to you that 22 a strike notice I believe was sent on 23 January 20, 2008. What notice did you 24 receive before then that the strike was 25

## Helen Sieger

- Q. For what period of time?
- A. I can't recall but it was certainly in this period of time. There were just not enough hours in the day.
- Q. Give me an estimate for what period all your mail and all your messages were not dealt with?
- A. Oh, for a very extended period of time.
  - Q. What extended period?
- A. Probably from the time we started preparing for the strike through the strike.
- Q. And when did you start preparing for the strike?
- A. I would say it was in the beginning of January, would have been about this time.
- Q. Do you know whether Kingsbridge made fringe benefit fund payments for earnings that Kingsbridge employees had in December of 2006?
- A. I had just found out that we did not. Actually, I don't even know if it was made and not cleared or the payments were

Helen Sieger

not made. I don't know, but we had just found out, then we just checked that.

- Q. Do you know whether Kingsbridge made payments to the benefit funds other than the medical fund for earnings that Kingsbridge employees had in November of 2006?
- A. The same answer. I don't know whether payments were made and not cleared, or payments were never made. And I will tell you that that was the greater shock to me, because there are -- there was no reason for one check to be made without the other.
- Q. I'm going to hand you a six page document that I would like to have marked as Sieger deposition Exhibit 8, and I would ask you to please look at this.

(Document headed: Report Date 7/30/08 marked Sieger Exhibit 8, for identification, as of this date.)

- Q. And you have had a chance to review Sieger Exhibit 8?
  - A. Yes.
  - Q. Just to make sure we are on the